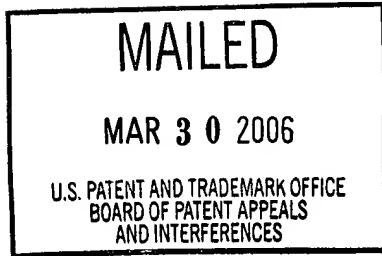


The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte HAYATO YAMAUCHI

Appeal No. 2005-2659
Application No. 09/881,108

HEARD: NOVEMBER 17, 2005

Before FRANKFORT, PATE and CRAWFORD, Administrative Patent Judges.
PATE, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-5.
These are the only claims in the application.

The claimed invention is directed to a retaining ring or stopper to prevent the drive pinion of an electrical automobile starter motor from slipping off of the pinion shaft.

Claim 1, reproduced below, is further illustrative of the claimed subject matter.

Claim 1

1. A pinion slip-off preventive structure of a starting apparatus in which a pinion is prevented from slipping off a pinion shaft, said pinion being splined to a spline portion formed on said pinion shaft and being in meshing engagement with a ring gear of an internal combustion engine while urged in a direction toward said ring gear from a side remote therefrom by means of an elastic member,

said structure comprising:

a projected portion extending from an end face of said pinion shaft in an axial direction thereof and having a groove formed on a smooth surface thereof in a circumferential direction thereof;

a snap ring fitted in said groove; and

a stopper having an abutting surface in abutting engagement with an end face of said pinion and an engaging portion engaged with said snap ring.

The references of record relied upon by the examiner as evidence of anticipation are:

Lafitte	2,960,879	Nov. 22, 1960
Schneider	DE 3928796	Mar. 7, 1991

Our understanding of the Schneider reference cited above is by way of an English language translation provided by the USPTO.

THE REJECTIONS

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as anticiapated by Schneider.

Claims 1 and 3-5 stand rejected under 35 U.S.C. § 102(b) as anticipated by Lafitte.

For the details of these rejections reference is made to the Examiner's Answer.

For appellant's response to the rejections reference is made to the Appeal Brief and Reply Brief.

OPINION

We have carefully reviewed the rejections on appeal in light of the arguments of the appellant and the examiner. As a result of this review, we have determined that neither reference provides proper evidence of the lack of novelty of the claimed subject matter. Accordingly, the rejections on appeal are reversed.

We are in agreement with the examiner that the appellant's claims on appeal do not require the pinion to constantly contact the stopper ring when the device is installed and in use. Accordingly, we believe both references satisfy the last clause of claim 1 requiring a stopper having an abutting surface in abutting engagement with an end face of the pinion.

However, of moment to us is the limitation in the first clause of the claim wherein the pinion is splined to a splined portion formed on the pinion shaft. Neither the pinion in Schneider or Lafitte is splined to the pinion shaft as appellant argues in the

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Reply Brief. In our view, this limitation from the claim preamble gives life and meaning to the further recited structure of the claim. Consequently, this limitation of the preamble is entitled to full patentable weight, and we are constrained to reverse the rejections of claims 1-5 on appeal for this reason.

In summary, section 102 rejections based on Schneider and Lafitte are reversed.

REVERSED


CHARLES E. FRANKFORT)
Administrative Patent Judge)


WILLIAM F. PATE, III)
Administrative Patent Judge)


MURRIEL E. CRAWFORD)
Administrative Patent Judge)

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